



PATENT
Atty. Docket No. ACS-54804 (23571)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:) Examiner: Not Assigned Yet.
)
Ainsworth, et al.) Group Art Unit: Not Assigned Yet
)
Serial No.: Not Assigned Yet) Application Express Mail Label No.
) EL691914024US - Mailed 12/22/00
Filed: December 22, 2000 (No Filing Date Received from PTO)) Express Mail Label No. of this
) Document: EL 737699338 US
For: INTRAVASCULAR STENT)
) June 4, 2001

PETITION UNDER 37 CFR § 1.10(e) FOR APPLICATION FILING DATE

Commissioner For Patents
Washington, DC 20231

Sir:

Applicants petition the Commissioner for a filing date of December 22, 2000, for the above-referenced application. The application was filed by applicants' attorney, using Express Mail under the provisions of 37 CFR § 1.10(a). No response has been received from the Patent Office -- not a return postcard nor a filing receipt. Applicants' attorney believes that the application has been lost in the Patent Office, because the United States Postal Service has verified that the Patent Office received the application on December 26, 2000.

Attached are copies of the papers that were sent to the Patent Office by Express Mail on December 22, 2000. They are:

05/11/2001 GTEFFERA 00000005 09746746

01 FC:122

130.00 OP

Adjustment date: 07/09/2001 LGIBBS
06/11/2001 GTEFFERA 00000005 09746746
01 FC:122
Repln. Ref: 07/09/2001 LGIBBS 001344405
DAH:062425 Name/Number:09746746
FC: 704 \$130.00

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JUN 11 2001

OFFICE OF PETITIONS

1. Copy of Acknowledgment Postcard;
2. Two pages of Form PTO-1082;
3. Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i);
4. The twenty-six (26) page Application of Stephen D. Ainsworth and E Tina Cheng on an Intravascular stent; and
5. Seven (7) sheets of drawings.

Also attached is a photocopy of the Express Mail mailing receipt for the application, Label No. EL 691914024US. That number is identified on the papers that were filed with the Patent Office.

It should be noted that the Application was filed with missing parts, and applicants' attorney is prepared to file those missing parts upon receipt of a request to file missing parts from the Patent Office.

Attached is the Declaration of Jane E. Barnett regarding the preparation and mailing of the patent application. Ms. Barnett prepared the application for mailing. She gave it to the clerical staff of Fulwider Patton Lee & Utecht, LLP, who then mailed it. Evidence of the mailing includes the mailing receipt and the page from the Fulwider Patton log (copy attached) that documents every Express Mail mailing to the Patent Office. Ms. Barnett's declaration also attests to her preparation and maintenance of the file folder in which the attachments to this Petition have been maintained. In addition, as the Declaration of Ms. Barnett states, on March 22, 2001, she conferred with the United States Postal Service and was told that the package with the patent application's tracking number was delivered to the Patent Office on December 26, 2000.

This Petition is being filed promptly. After not receiving a return postcard that was included with the application, applicants' attorney waited a reasonable time to receive a filing receipt for the application. No filing receipt has ever been received. Approximately five months have passed since the application was filed, and applicants' attorney believes that the entire application has been lost in the Patent Office. Therefore this Petition is now being filed.

PATENT
Atty Docket No. ACS-54804 (22571)

A Petition Fee of \$130.00 is attached. The Commission is authorized to charge deposit account no. 06-2425 for any additional fees associated with this Petition.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By John S. Nagy
John S. Nagy, No. 30,664

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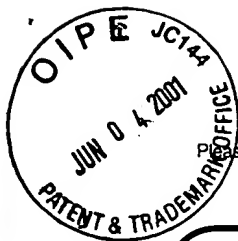
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UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>6/20/01</u>		2 Serial/Patent # <u>09/746,746</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
	Extension of Time			\$							
	Notice of Appeal/Appeal			\$							
X	Petition	3	6-4-01	\$ 130.							
X	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
	Other			\$							
		7 TOTAL AMOUNT OF REFUND		\$ 130.00							
10 REASON:		8 TO BE REFUNDED BY:									
		Treasury Check									
Overpayment		Credit Deposit A/C #:									
Duplicate Payment		9 <table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 20px;">0</td> <td style="width: 20px;">6</td> <td style="width: 20px;">--</td> <td style="width: 20px;">2</td> <td style="width: 20px;">4</td> <td style="width: 20px;">2</td> <td style="width: 20px;">5</td> </tr> </table>			0	6	--	2	4	2	5
0	6	--	2	4	2	5					
X No Fee Due (Explanation):											
<u>Rule 10 petition - moot</u>											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>E. Shirene Willis</u>		TITLE: <u>Petitions Attorney</u>									
SIGNATURE: <u>E. Shirene Willis</u>		PHONE: <u>308 6712</u>									
OFFICE: <u>Office of Petitions</u>											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED: <u>Ariana Chase</u>		DATE: <u>7/9/01</u>									

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Approved for use through 09/30/2000. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PTO/SB/21 (6-98)

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	Not Assigned
	Filing Date	December 22, 2000
	First Named Inventor	Ainsworth, et al.
	Group Art Unit	Not Assigned Yet
	Examiner Name	Not Assigned
Total Number of Pages in This Submission		Attorney Docket Number ACS-54804

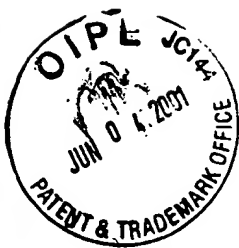
ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below): See Below for Additional Enclosures
Remarks Additional Enclosures: Petition Under 37 CFR Section 1.10(e) for Application Filing Date; Declaration of Jane E. Barnett; Copies of the following documents: Acknowledgment postcard; two pages of Form PTO-1082; Request and Certification under 35 U.S.C. Section 122(b)(2)(B)(i); 26 page Patent Application of Ainsworth, et al.; seven sheets of drawings, postcard; and check in the amount of \$130.00		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	John S. Nagy; Registration No. 30,664 FULWIDER PATTON LEE & UTECHT, LLP
Signature	<i>John S. Nagy</i>
Date	6-7-01

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CERTIFICATE OF MAILING BY EXPRESS MAIL			
I hereby certify that this correspondence is being deposited with the United States Postal Service by First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: June 4, 2001			
Typed or printed name	John S. Nagy		
Signature	<i>John S. Nagy</i>	Date	6-7-01

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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PTO/SB/17 (09-00)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**FEE TRANSMITTAL
for FY 2001**

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT

(\$ 130.00)

Complete if Known

Application Number	Not Assigned
Filing Date	December 22, 2000
First Named Inventor	Ainsworth, et al.
Examiner Name	Not Assigned
Group Art Unit	Not Assigned
Attorney Docket No.	ACS-54804

METHOD OF PAYMENT

- 1.
- ☐
- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number: 06-2425
Deposit Account Name: Fulwider Patton

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17☐ Applicant claims small entity status. See 37 CFR 1.27

- 2.
- ☒
- Payment Enclosed:

☒ Check ☐ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 710	201 355	Utility filing fee	
106 320	206 160	Design filing fee	
107 490	207 245	Plant filing fee	
108 710	208 355	Reissue filing fee	
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims: -20** = X =
Independent Claims: -3** = X =
Multiple Dependent: =

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 80	202 40	Independent claims in excess of 3
104 270	204 135	Multiple dependent claim, if not paid
109 80	209 40	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

*or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for ex parte reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 390	216 195	Extension for reply within second month	
117 890	217 445	Extension for reply within third month	
118 1,390	218 695	Extension for reply within fourth month	
128 1,890	228 945	Extension for reply within fifth month	
119 310	219 155	Notice of Appeal	
120 310	220 155	Filing a brief in support of an appeal	
121 270	221 135	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,240	241 620	Petition to revive - unintentional	
142 1,240	242 620	Utility issue fee (or reissue)	
143 440	243 220	Design issue fee	
144 600	244 300	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	130
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 710	246 355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 710	249 355	For each additional invention to be examined (37 CFR § 1.129(c))	
179 710	279 355	Request for Continued Examination (RCE)	
169 900	169 900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 130)

SUBMITTED BY

Name (Print/Type)	John S. Nagy	Registration No. (Attorney/Agent)	30,664	Telephone	(310) 824-5555
Signature	<i>John S. Nagy</i>	Date	6-7-01		

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